

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KENNETH A. CARRUTHERS
Petitioner,

v.

JAMES FORTNER, WARDEN
Respondent.

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No. 3:09-0391
Judge Campbell

O R D E R

On August 20, 2009, an order (Docket Entry No.28) was entered dismissing the instant § 2254 habeas corpus action.

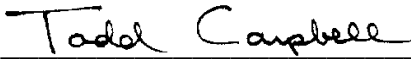
The Sixth Circuit Court of Appeals granted the petitioner a Certificate of Appealability on the sole issue of whether he had procedurally defaulted his state court remedies regarding the claim that counsel had been ineffective for failing to investigate and interview witnesses (Docket Entry No.36).

In an order entered on January 19, 2012, the appellate court found that the petitioner had not procedurally defaulted his state court remedies and that this claim should have been addressed on the merits. As a consequence, the case has been remanded for further proceedings.

Accordingly, consistent with the order from the appellate court, the respondent is DIRECTED to file a response within thirty (30) days from the date of entry of this order on the docket

addressing the merits of petitioner's ineffective assistance claim.

It is so ORDERED.



Todd Campbell

United States District Judge